

the ensuing years, testing positive for cocaine and failing to pay household bills, including power bills during winter months. Respondent also had problems meeting the medical needs of her children. She failed to take them to the doctor or dentist for scheduled appointments or arrived too late for the doctor to see them. Respondent also let the Medicaid coverage for her children expire because she failed to fill out required paperwork. A social worker eventually had to complete the forms to reinstate Medicaid coverage. During this period, respondent also failed to maintain employment and was convicted of food stamp fraud. T.R.'s father lived in the home with respondent and the children. He worked part-time and gave his check to respondent. T.S.'s father lived in Charlotte and did not provide any financial support.

On 29 July 2003, DSS filed a juvenile petition alleging the children were neglected and dependant. The trial court found the allegations in the petition to be true and entered an order granting DSS non-secure custody of both children. The children were placed in the home of their maternal grandfather and step-grandmother, where they remained until 14 June 2004 when DSS moved the children to a foster home.

On 17 September 2003, respondent signed a mediation agreement stipulating to certain findings of fact for adjudication purposes. An adjudicatory hearing was held on 21 October 2003, at which time the trial court accepted the mediated settlement agreement, under the terms of which respondent acknowledged her history of substance abuse and medical neglect of the children. The trial court

adjudicated the children to be neglected and dependent. Immediately thereafter, the trial court held a disposition hearing and awarded DSS custody of the minor children. The trial court adopted the mediated case plan, which provided a goal of reunification. Pursuant to the case plan, respondent agreed to complete a substance abuse assessment, comply with all drug treatment recommendations, obtain appropriate housing and employment, and complete parenting classes. Respondent completed the assessment, which recommended she obtain substance abuse treatment. She initially sought treatment, but never completed any substance abuse treatment program.

Following a permanency planning hearing in June 2004, DSS made several attempts to have respondent obtain substance abuse treatment. These attempts were unsuccessful. During this time, the trial court issued several Orders to Show Cause for respondent's failure to comply with its orders to obtain substance abuse treatment. The trial court found respondent to be in willful contempt of court and sentenced her to jail for short periods of time, although most of these sentences were suspended. Respondent also failed to maintain employment for any length of time. At the time of the termination of parental rights (TPR) hearing, she had been working at the Courtyard Marriott Hotel as a cook for approximately one month. Respondent completed parenting classes. She did not visit the children on a regular basis, despite having ready access to them. Respondent only visited the children twice between March and June 2004.

On 29 September 2004, DSS filed a petition for termination of parental rights to T.R. and T.S. The petition alleged as grounds for termination: (1) respondent had neglected the minor children as defined by N.C. Gen. Stat. § 7B-101(15) (N.C. Gen. Stat. § 7B-1111(a)(1)); and (2) respondent willfully left her children in foster care for more than twelve months without demonstrating she had made reasonable progress to correct the conditions which led to their removal (N.C. Gen. Stat. § 7B-1111(a)(2)). The matter came on for hearing on 2 August 2005. The trial court terminated respondent-mother and the fathers' parental rights to both children, finding each of the grounds for termination alleged in the petition existed. The trial court further determined it was in the best interests of both children that the parents' rights be terminated and entered an order providing for termination. Neither of the children's fathers contested the termination of their parental rights and neither are parties to this appeal. Respondent appeals.

Respondent contends the trial court's findings of fact and conclusion of law, that it was in the children's best interest to terminate her parental rights, were not supported by the evidence. She further contends the trial court abused its discretion when it ordered her parental rights be terminated. We disagree.

A termination of parental rights proceeding is conducted in two separate phases: adjudication and disposition. *In re McMillon*, 143 N.C. App. 402, 408, 546 S.E.2d 169, 173 (2001). At the adjudicatory stage, the petitioner bears the burden of proving by

clear, cogent, and convincing evidence at least one of the statutory grounds for termination listed in N.C. Gen. Stat. § 7B-1111 exists. *Id.* at 408, 546 S.E.2d at 173-74. If the petitioner meets the burden of proving at least one ground for termination exists, the trial court proceeds to the dispositional phase and considers whether termination is in the best interests of the child. *Id.* at 408, 546 S.E.2d at 174.

While respondent assigned as error numerous findings of fact in the termination order, she does not make any specific argument in her brief that any of these findings of fact were not supported by clear, cogent and convincing evidence. Having failed to argue these assignments of error in her brief, they are deemed abandoned. *Accord In re E.T.S.*, ___ N.C. App. ___, ___, 623 S.E.2d 300, 304 (2005) (citing N.C. R. App. P. Rule 28(b)(6)). Therefore, the trial court's findings are binding on appeal. *Id; In re Padgett*, 156 N.C. App. 644, 648, 577 S.E.2d 337, 340 (2003).

In her brief, respondent concedes that grounds existed to terminate her parental rights as alleged in the petition and that the trial court properly considered evidence of her changed circumstances at the time it conducted the TPR hearing. Rather, she asserts the trial court abused its discretion at the dispositional phase when it determined that termination of her parental rights were in her children's best interests. We review the trial court's decision to terminate a parent's rights during the dispositional phase under an abuse of discretion standard. *In re Nesbitt*, 147 N.C. App. 349, 352, 555 S.E.2d 659, 662 (2001). An

abuse of discretion occurs where the trial court's decision "is so arbitrary that it could not have been the result of a reasoned decision." *In re J.B.*, ___ N.C. App. ___, ___, 616 S.E.2d 385, 387, *aff'd*, 360 N.C. 165, 622 S.E.2d 495 (2005).

Respondent argues that several factors combined to create the trial court's alleged abuse of discretion. First, she asserts the trial court's failure to conduct a review hearing between the last permanency planning hearing held on 21 June 2004 and the date of the TPR hearing held 2 August 2005 violated N.C. Gen. Stat. § 7B-906 and prejudiced her because the trial court did not know the progress she was making in her case and that progress was not made part of the underlying file. "[T]he scope of review on appeal is confined to a consideration of those assignments of error set out in the record on appeal" N.C. R. App. P. 10(a). Respondent does not assign the trial court's violation of N.C. Gen. Stat. § 7B-906 in the record on appeal; therefore, this issue is not properly before this Court. Respondent also argues she was prejudiced by the delay between the filing of the petition to terminate her parental rights and the TPR hearing. Respondent cites no authority in support of her argument as required by N.C. R. App. P. 28()(6)), nor does she adequately articulate any prejudice she suffered from the delay. *In re As.L.G.*, ___ N.C. App. ___, ___, 619 S.E.2d 561, 564-65 (2005). Therefore, we do not address this argument.

It also appears respondent is asserting the trial court's refusal to consider a bond between her children and herself and the

children's wishes, or make any findings of fact about these matters, contributed to its abuse of discretion. To the extent respondent contends the trial court prevented her from questioning the social worker about her bond with her children, the trial court allowed the social worker to testify that the children stated they loved their mother and inquired about her progress with her case plan. Moreover, the trial court is not required to recite every evidentiary fact presented at the hearing in its order, but must only make "specific findings of the ultimate facts established by the evidence, admissions and stipulations which are determinative of the questions involved in the action and essential to support the conclusions of law reached." *Quick v. Quick*, 305 N.C. 446, 452, 290 S.E.2d 653, 658 (1982) (citing N.C. Gen. Stat. § 1A-1, Rule 52(a)). Just because the trial court did not make a finding regarding whether and to what extent the children were bonded with their mother does not mean it did not consider this in deciding what was in the children's best interest.

Next, respondent challenges the judgments of contempt entered by the trial court, arguing they thwarted her ability to comply with her case plan, such as finding a job and visiting with her children. Respondent did not timely appeal any of these judgments in her notice of appeal as required by N.C. R. App. P. 3(d), nor has she assigned error to them on appeal. N.C. R. App. P. 10(a). Accordingly, any challenge to these orders has been waived.

Lastly, respondent asserts she was making considerable progress on her case plan at the time of the TPR hearing, and

therefore, the trial court abused its discretion in concluding it was in the children's best interests to terminate her parental rights. Whether a parent has made reasonable progress to correct the conditions that led to the removal of their children is an issue to be addressed during the adjudication phase of the termination hearing. See *J.B.*, ___ N.C. App. ___, ___, 616 S.E.2d 264, 277 (2005) (noting that at the adjudication stage, the trial court must determine the existence of one or more of the grounds for termination listed in N.C. Gen. Stat. § 7B-1111, of which, whether a parent has made reasonable progress pursuant to N.C. Gen. Stat. § 7B-1111(a)(2), is included). On appeal, respondent has not challenged any of the trial court's findings on this matter, thus they are binding on appeal. *E.T.S.*, ___ N.C. App. at ___, 623 S.E.2d at 304. In addition, respondent concedes in her brief that grounds existed to terminate her parental rights for the reasons asserted in the petition, which included N.C. Gen. Stat. § 7B-1111(a)(2), and that the trial court properly considered evidence of her changed circumstances at the time it conducted the TPR hearing. Thus, this argument is without merit.

AFFIRMED.

Judge MCCULLOUGH and CALABRIA concur.

Report per Rule 30(e).